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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDWARD CANBY NED WHEELER,

Defendants.

Case No. 3:22-cr-00028-SLG-KFR

**FINAL REPORT AND RECOMMENDATION UPON A PLEA OF GUILTY**

Upon Defendant's request to enter a guilty plea, pursuant to Rule 11 of the Federal Rules of Criminal Procedure, to Count One of the Indictment [Doc. 1], the District Court referred this matter to the Magistrate Judge, with the written and verbal consents of Defendant, counsel for Defendant, and counsel for the United States.

Thereafter, the matter came before this Court for a hearing on Defendant's guilty plea, in full compliance with Rule 11, Federal Rules of Criminal Procedure, in open court and on the record.

In consideration of that hearing and the colloquy made by the Defendant under oath, on the record, in the presence of counsel, and the remarks of the Assistant United States Attorney,

**A. I make the following FINDINGS – that the Defendant understands:**

- ☒ That any false statements made by the Defendant under oath may later be used against him in a prosecution for perjury;
- ☒ The right to persist in a plea of not-guilty;
- ☒ The consequences of not being a United States citizen;
- ☒ The nature of the charges against the Defendant;
- ☒ The loss of certain federal benefits;

- 1           ☒ The maximum possible sentence, including imprisonment, fine,  
2 supervised release, and any applicable mandatory minimum sentence;  
3           ☒ The Court's authority to order restitution;  
4           ☒ The mandatory special assessment;  
5           ☒ Any applicable forfeiture;  
6           ☒ The right to a speedy and public trial by jury;  
7           ☒ The right to be represented by counsel and, if necessary, to have the  
8 court appoint counsel at trial, and at every other stage of the  
9 proceedings;  
10          ☒ The right to: confront and cross-examine adverse witnesses, to remain  
11 silent, to testify and present evidence, and to compel the attendance of  
12 witnesses;  
13          ☒ That a plea of guilty operates as a waiver of trial rights;  
14          ☐ That the Defendant knowingly, intelligently, and voluntarily waives all  
15 right to appeal or collaterally attack (except on the grounds of  
16 ineffective assistance of counsel and the voluntariness of his plea)<sup>1</sup>; and  
17          ☒ That in determining a sentence, the court's obligation to calculate the  
18 applicable sentencing guideline range pursuant to the Sentencing  
19 Guidelines promulgated by the United States Sentencing Commission  
20 and to consider that range, as well as departures under the Sentencing  
21 Guidelines, and variances under 18 U.S.C. §3553(a).

22       **B. I further FIND:**

- 23           1. The Defendant is competent to enter an informed plea;  
24           2. The Defendant is aware of his rights and has had the advice of legal  
25 counsel;  
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27       <sup>1</sup> Defendant entered his plea without a plea agreement. There was no waiver of any  
28 appellate rights.



1 recommendation following de novo review. Any objections must be filed within  
2 seven (7) days from the date of service of this Report and Recommendation. The  
3 shortened objection deadline is due to the request of the District Court Judge. Fed.  
4 R. Crim P. 59(b)(2) and D. Ak. L.M.R. 6(a) authorizes the court to alter the standard  
5 objection deadlines.

6 Reports and recommendations are not appealable orders. Any notice of appeal  
7 pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District  
8 Court's judgment.<sup>2</sup>  
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27 <sup>2</sup> See *Hilliard v. Kincheloe*, 796 F.2d 308 (9th Cir. 1986).